IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO.333 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/02/2005 in WP No.19224 of 2004 on the file of the High Court.)

Between:

1 Govt. of A.P. Transport (R&B) Department, Secretariat, Hyderabad, rep.

by its Special Chief Secretary
2 The District Collector, Hyderabad District, Nampally Station Road,

Hyderabad.
3 The Special Dy. Collector (LA) General, O/o. Hyderabad District

Collector, Nampally Station Road, Hyderabad.
4 The Chief Engineer, (R &B) Roads, Erramanzil, Hyderabad.
5 The Superintending Engineer, (R &B) Rural Circle, Hyderabad.

..... APPELLANT(S)

AND

S. Anjaiah, S/o. S. Lingaiah,
R/o. H.No. 3-4-835/2, Barkatpura,
Hyderabad.

.....RESPONDENT

Counsel for the Appellants :G.P. FOR ROADS & BUILDINGS
Counsel for the Respondent : MR.M.RAMA RAO

The Court made the following :

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

Appellants are aggrieved by the order passed by the learned single Judge allowing the writ petition of the respondent, thereby directing the appellants to deliver vacant possession of 583 square metres of land taken over from the respondent within a period of two weeks thereof, and also to pay damages for use and occupation of the said land at the rate of Rs.100/- per day from the date of taking over possession till the date of delivery of possession to him.

For the widening of Golnaka bridge across Hussain Sagar Nala, possession of 583 square metres of land belonging to the respondent was taken over by appellants in the year 2000 and in order to formally acquire the land, the requisition was also sent by the Superintending Engineer, Road and Buildings, Rural Circle, Hyderabad, to Special Deputy Collector – Land Acquisition, Hyderabad. Tentative cost of the land was worked out by the Special Deputy Collector amounting to Rs.88,99,320/-, which included the land value at the rate of Rs.9,000/- per square yard; 30% solatium on the land value and 12% additional market value under Section 23(1-A) of the Land Acquisition Act, 1894. It also included the miscellaneous expenditure for printing in Gazette and paper publication at Rs.30,000/-. Thus, the Superintending Engineer, Roads and Buildings, Rural Circle, Hyderabad, asked the Chief Engineer, Road and Buildings, Hyderabad, to make available the said amount forthwith so that he will pay the same to the owner, who is respondent herein. The amount was not paid though the acquired land was utilised for public purpose. Respondent had been submitting numerous representations, but in vain and hence, the respondent had to approach this Court by filing the writ petition seeking direction for payment of the

compensation amount, or in the alternative to declare the action of appellants in taking possession of the land without paying compensation as illegal and arbitrary. On behalf of the appellants, prayer has been made to grant more time for payment of compensation, which, the learned single Judge was not inclined to grant and declared the action of appellants in taking over possession of land without making payment of compensation to be illegal, arbitrary and violative of Article 300-A of the Constitution of India, and thus directed restoration of possession. Appeal is against the said order. We have heard learned counsel for the parties.

It is not the case in which the respondent is seeking restoration of possession inasmuch as a bridge has already been constructed over the land. Grievance of the respondent is for non-payment of amount of compensation. Once possession of land was taken over, the appellants and their officials ought not to have waited for four years in making payment to the rightful owner, who has been deprived of the property. Moreover, we are informed that there are no proceedings initiated under the provisions of the Land Acquisition Act, 1894 to regularise the possession of the State Government. When once the State Government decides to acquire the land and takes over possession, maybe in emergent situation, possession has to be taken forthwith, the relevant provisions of law have to be invoked and brought into operation so that the entire action of taking over possession of land is legalised, and the only recourse available for regularising such possession would be to take out proceedings under the provisions of the Land Acquisition Act. In this case, requisition was sent to the Special Deputy Collector (Land Acquisition - General), Hyderabad, who asked the Executive Engineer, Roads and Buildings, City Roads Division, Hyderabad, to make available an amount of Rs.88,99,320/- towards cost of land, solatium, additional market value etc. Neither the said amount was deposited nor further proceedings had taken place, and thus, there was inaction on the part of appellants. Learned single Judge in these circumstances ought not to have directed restoration of possession, but ought to

have directed the appellants to take out appropriate proceedings in accordance with law by proceeding to get an award passed on the basis of agreement arrived at between the parties as envisaged under Section 11(2) of the Land Acquisition Act, and to pay the compensation.

Learned counsel for appellants states that six weeks' time be allowed to appellants to make payment of compensation. Accordingly, we allow the appeal and set aside the impugned order and direct the appellants No.4 and 5 to deposit the market value of the land at Rs.9,000/- per square yard along with
30% solatium on the land value, 12% additional market value and compulsory acquisition charges and all other statutory benefits as payable under the provisions of the said Act, within a period of six weeks from today, with the third appellant, and the third appellant on receipt of the said amount will pay the same to the respondent herein. Appellant No.3 is also directed to pass appropriate orders in accordance with law on the basis of agreement between the parties, within a period of two months from the date of receipt of amount from the appellants No.4 and 5. As the respondent had agreed for parting with possession of land and prepared to accept compensation, legal formalities to be complied with by the appellants, under the provisions of
Section 5-A of the Land Acquisition Act are hereby dispensed with.

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DEVINDER GUPTA, C.J.

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B.SESHASAYANA REDDY, J

01-03-2005

bsc

.....REGISTRAR

To

1 The Special Chief Secretary
Govt. of A.P. Transport (R&B) Department, Secretariat, Hyderabad.

2 The District Collector, Hyderabad District, Nampally Station Road,

Hyderabad.
3 The Special Dy. Collector (LA) General, O/o. Hyderabad District

Collector, Nampally Station Road, Hyderabad.
4 The Chief Engineer, (R &B) Roads, Erramanzil, Hyderabad.
5 The Superintending Engineer, (R&B) Rural Circle, Hyderabad.

6. 2 CCs to Govt. Pleader for Roads and Buildings, High court of A.P.

buildings, Hyderabad (OUT)

7. 2 CD copies